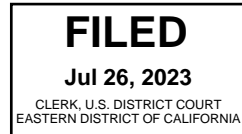


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SEALED

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, *et al.*, *ex*
rel., JOHN CHUNG,

Plaintiffs,

v.

THE KROGER CO., d/b/a/ KROGER,
KROGER FRESH FARE, KROGER
MARKETPLACE, *et al.*,

Defendants.

Case No. 2:20-CV-409 JAM AC

**STATE OF CALIFORNIA'S NOTICE OF
ELECTION TO DECLINE
INTERVENTION AND CONSENT TO
DISMISSAL**

FILED UNDER SEAL

Pursuant to the California False Claims Act, California Government Code section 12652, subdivision (c)(6)(B), the State of California ("California"), by and through its counsel, Rob Bonta, Attorney General, and Jennifer S. Gregory, Deputy Attorney General, respectfully notifies the Court of its decision to decline intervention in the above-captioned action filed on behalf of California by *qui tam* plaintiff John Chung ("relator").

Pursuant to California Government Code section 12652, subsection (f)(1), California also requests that, should this case continue, the parties serve copies of all pleadings, motions, and appeals subsequently filed in this action upon California, and California further reserves the right to order any deposition transcripts, to intervene in the action for good cause shown at a later date,

1 and/or to seek the dismissal of the relator's action or claims. California also requests that it be
2 served with all notices of appeal.

3 California has conferred with counsel for each of the named plaintiff States of Colorado,
4 Delaware, Florida, Georgia, Illinois, Indiana, Louisiana, Maryland, Michigan, Montana, Nevada,
5 New Mexico, North Carolina, Tennessee, Texas, and Washington, the Commonwealth of Virginia,
6 and the District of Columbia (hereinafter, "States"). The States have asked to join California's
7 Notice of Election to Decline Intervention. To the extent the False Claims Act of any of the
8 individual States provides for continued service of pleadings or other documents upon counsel for
9 the States, those States request that they continue to receive such documents.

10 At the request of the State of Maryland, California conveys the following information: The
11 Maryland False Health Claims Act provides that "[i]f the State does not elect to intervene and
12 proceed with the action ... before unsealing the complaint, the court shall dismiss that action." Md.
13 Code Ann., Health Gen, § 2-604(a)(7). Accordingly, Maryland requests that all claims asserted on
14 its behalf be dismissed without prejudice.

15 Relatedly, California has conferred with counsel for each of the States and obtained
16 affirmative consent to dismissal of each State's claims without prejudice as to said State should
17 relator seek to do so.


18 Finally, California requests that when the Court lifts the seal, the Court do so only as to the
19 *qui tam* complaint, this notice, the attached proposed order, and any similar notice and proposed
20 order filed by the United States.

21 A proposed Order accompanies this Notice.

22 Dated: July 26, 2023

Respectfully submitted,

23 ROB BONTA
24 Attorney General of California

25 
26 _____
27 JENNIFER S. GREGORY
28 Deputy Attorney General
Attorneys for Plaintiff State of California